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18 aircraft.

19 ~~(1) "Aeronautics" means transportation by aircraft; the~~  
20 ~~operation, construction, repair, or maintenance of aircraft,~~  
21 ~~aircraft power plants and accessories, including the repair,~~  
22 ~~packing, and maintenance of parachutes; the design,~~  
23 ~~establishment, construction, extension, operation, improvement,~~  
24 ~~repair, or maintenance of airports, restricted landing areas, or~~  
25 ~~other air navigation facilities, and air instruction.~~

26 (2) "Airport" means any area of land or water designed and  
27 set aside for the landing and taking off of aircraft and  
28 utilized or to be utilized in the interest of the public for  
29 such purpose.

30 (3) "Airport hazard" means any obstruction that exceeds  
31 ~~structure or tree or use of land which would exceed~~ the federal  
32 obstruction standards as contained in 14 C.F.R. ss. 77.15,  
33 77.17, 77.19, 77.21, and 77.23, 77.25, 77.28, and 77.29 and that  
34 ~~which~~ obstructs the airspace required for the flight of aircraft  
35 in taking off, maneuvering, or landing or is otherwise hazardous  
36 to such taking off, maneuvering, or landing of aircraft and for  
37 which no person has previously obtained a permit ~~or variance~~  
38 pursuant to s. 333.025 or s. 333.07.

39 (4) "Airport hazard area" means any area of land or water  
40 upon which an airport hazard might be established ~~if not~~  
41 ~~prevented as provided in this chapter.~~

42 (5) "Airport land use compatibility zoning" means airport  
43 zoning regulations governing ~~restricting~~ the use of land

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44 adjacent to or in the immediate vicinity of airports in the  
45 manner provided ~~enumerated in s. 333.03 333.03(2) to activities~~  
46 ~~and purposes compatible with the continuation of normal airport~~  
47 ~~operations including landing and takeoff of aircraft in order to~~  
48 ~~promote public health, safety, and general welfare.~~

49 (6) "Airport layout plan" means a scaled detailed, scale  
50 engineering drawing, or set of drawings, in either paper or  
51 electronic form, of existing, including pertinent dimensions, of  
52 an airport's current and planned airport facilities which  
53 provides a graphic representation of the existing and long-term  
54 development plan for the airport and demonstrates the  
55 preservation and continuity of safety, utility, and efficiency  
56 of the airport, their locations, and runway usage.

57 (7) "Airport master plan" means a comprehensive plan of an  
58 airport that describes the immediate and long-term development  
59 plans to meet future aviation demand.

60 (8) "Airport protection zoning" means airport zoning  
61 regulations governing airport hazards in the manner provided in  
62 s. 333.03.

63 (9) "Department" means the Department of Transportation as  
64 created under s. 20.23.

65 (10) "Educational facility" means any structure, land, or  
66 use thereof that includes a public or private kindergarten  
67 through 12th grade school, charter school, magnet school, college  
68 campus, or university campus. For the purpose of this chapter,  
69 the term "educational facility" does not include space used for

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70 educational purposes within a multitenant building.

71 (11) "Landfill" means the same as the term is defined in s.  
72 403.703.

73 (12)-(7) "Obstruction" means any object of natural growth  
74 or terrain, or permanent or temporary construction or  
75 alteration, including equipment or materials used and any  
76 permanent or temporary apparatus, or alteration of any permanent  
77 or temporary existing structure by a change in its height,  
78 including appurtenances, or lateral dimensions, including  
79 equipment or material used therein, existing or proposed, which  
80 exceeds manmade object or object of natural growth or terrain  
81 that violates the standards contained in 14 C.F.R. ss. 77.15,  
82 77.17, 77.19, 77.21, and 77.23, 77.25, 77.28, and 77.29.

83 (13)-(8) "Person" means any individual, firm,  
84 copartnership, corporation, company, association, joint-stock  
85 association, or body politic, and includes any trustee,  
86 receiver, assignee, or other similar representative thereof.

87 (14)-(9) "Political subdivision" means the local government  
88 of any county, city, town, village, or other subdivision or  
89 agency of the state thereof, or any district or special  
90 district, port commission, port authority, or other such agency  
91 authorized to establish or operate airports in the state.

92 (15) "Public-use airport" means an airport, publicly or  
93 privately owned, licensed by the state, which is open for use by  
94 the public.

95 (16)-(10) "Runway protection clear zone" means an area at

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96 ground level beyond the runway end to enhance the safety and  
97 protection of people and property on the ground ~~a runway clear~~  
98 ~~zone as defined in 14 C.F.R. s. 151.9(b).~~

99 (17) ~~(11)~~ "Structure" means any object, constructed,  
100 erected, altered, or installed ~~by humans,~~ including, but without  
101 limitation thereof, buildings, towers, smokestacks, utility  
102 poles, power generation equipment, and overhead transmission  
103 lines.

104 ~~(12) "Tree" includes any plant of the vegetable kingdom.~~

105 (18) "Substantial modification" means any repair,  
106 reconstruction, rehabilitation, or improvement of a structure  
107 when the actual cost of the repair, reconstruction,  
108 rehabilitation, or improvement of the structure equals or  
109 exceeds 50 percent of the market value of the structure.

110 Section 10. Section 333.025, Florida Statutes, is amended  
111 to read:

112 333.025 Permit required for structures exceeding federal  
113 obstruction standards.—

114 (1) Any person proposing the construction or alteration ~~In~~  
115 ~~order to prevent the erection of structures~~ hazardous ~~dangerous~~  
116 to air navigation, subject to the provisions of subsections (2),  
117 (3), and (4), ~~each person~~ shall secure from the department ~~of~~  
118 ~~Transportation~~ a permit for the proposed construction or  
119 ~~erection, alteration, or modification~~ of any structure the  
120 result of which would exceed the federal obstruction standards  
121 as contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and

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122 ~~77.23, 77.25, 77.28, and 77.29.~~ However, permits from the  
123 department ~~of Transportation~~ will be required only within an  
124 airport hazard area where federal obstruction standards are  
125 exceeded and if the proposed construction is within a 10-  
126 nautical-mile radius of the airport reference point, located at  
127 the approximate geometric ~~geographical~~ center of all usable  
128 runways of a public-use airport, or a publicly owned or operated  
129 ~~airport, a military airport, or an airport licensed by the state~~  
130 ~~for public use.~~

131 (2) Existing, planned, and proposed ~~Affected airports will~~  
132 ~~be considered as having these facilities~~ on public-use airports  
133 contained in an ~~which are shown on the~~ airport master plan, on  
134 ~~or~~ an airport layout plan submitted to the Federal Aviation  
135 Administration Airport District Office, or in comparable  
136 military documents, ~~and will be so protected~~ from the structures  
137 that exceed federal obstruction standards. ~~Planned or proposed~~  
138 ~~public-use airports which are the subject of a notice or~~  
139 ~~proposal submitted to the Federal Aviation Administration or to~~  
140 ~~the Department of Transportation shall also be protected.~~

141 (3) Permit requirements of subsection (1) shall not apply  
142 to structures ~~projects~~ which received construction permits from  
143 the Federal Communications Commission for structures exceeding  
144 federal obstruction standards prior to May 20, 1975, ~~provided~~  
145 ~~such structures now exist;~~ nor shall such requirements ~~it~~ apply  
146 to previously approved structures now existing, or any necessary  
147 replacement or repairs to such existing structures, so long as

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148 the height and location is unchanged.

149 (4) When political subdivisions have adopted adequate  
150 airport airspace protection zoning regulations in compliance  
151 with s. 333.03~~7~~, and such regulations are on file with the  
152 department ~~of Transportation~~, and have established a permitting  
153 process in compliance with s. 333.09(2), a permit for such  
154 structure shall not be required from the department ~~of~~  
155 ~~Transportation~~. To evaluate technical consistency with this  
156 section there is a 15-day department review period concurrent  
157 with the permitting process prescribed by s. 333.09. Upon  
158 receipt of a complete permit application, the local government  
159 shall forward a copy of the application to the department's  
160 Aviation Office by certified mail, return receipt requested, or  
161 by delivery service that provides a receipt evidencing delivery.  
162 Cranes, construction equipment, and other temporary structures  
163 in use or in place for a period not to exceed 18 consecutive  
164 months are exempt from department review, unless such review is  
165 requested by the department.

166 (5) The department ~~of Transportation~~ shall, within 30 days  
167 after ~~of~~ the receipt of an application for a permit, issue or  
168 deny a permit for the construction or erection, alteration, ~~or~~  
169 ~~modification~~ of any structure ~~the result of~~ which would exceed  
170 federal obstruction standards as contained in 14 C.F.R. ss.  
171 77.15, 77.17, 77.19, 77.21, and 77.23, ~~77.25, 77.28, and 77.29~~.  
172 The department shall review permit applications in conformity  
173 with s. 120.60.

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174 (6) In determining whether to issue or deny a permit, the  
175 department shall consider:

176 (a) The safety of persons on the ground and in the air.

177 (b) The safe and efficient use of navigable airspace.

178 (c) ~~(a)~~ The nature of the terrain and height of existing  
179 structures.

180 ~~(b) Public and private interests and investments.~~

181 (d) Whether the construction of the proposed structure  
182 would impact the state licensing standards for a public-use  
183 airport, contained in chapter 330 and rule 14-60, Florida  
184 Administrative Code.

185 (e) ~~(e)~~ The character of existing and planned flight flying  
186 operations and ~~planned~~ developments at public-use of airports.

187 (f) ~~(d)~~ Federal airways, visual flight rules, flyways and  
188 corridors, and instrument approaches as designated by the Federal  
189 Aviation Administration.

190 (g) ~~(e)~~ Whether the construction of the proposed structure  
191 would cause an increase in the minimum descent altitude or the  
192 decision height at the affected airport.

193 ~~(f) Technological advances.~~

194 ~~(g) The safety of persons on the ground and in the air.~~

195 ~~(h) Land use density.~~

196 ~~(i) The safe and efficient use of navigable airspace.~~

197 (h) ~~(j)~~ The cumulative effects on navigable airspace of all  
198 existing structures, ~~proposed structures identified in the~~  
199 ~~applicable jurisdictions' comprehensive plans,~~ and all other

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200 known proposed structures in the area.

201 (7) When issuing a permit under this section, the  
202 department ~~of Transportation~~ shall, ~~as a specific condition of~~  
203 ~~such permit,~~ require the owner ~~obstruction marking and lighting~~  
204 ~~of the permitted structure~~ or vegetation to install, operate,  
205 and maintain thereon, at his or her own expense, marking and  
206 lighting in conformance with the specific standards established  
207 by the Federal Aviation Administration as provided in s.  
208 ~~333.07(3)(b).~~

209 (8) The department ~~of Transportation~~ shall not approve a  
210 permit for the construction or alteration ~~erection~~ of a  
211 structure unless the applicant submits both documentation  
212 showing compliance with the federal requirement for notification  
213 of proposed construction or alteration and a valid aeronautical  
214 study evaluation, and a no permit may not shall be approved  
215 solely on the basis that such proposed structure will not exceed  
216 federal obstruction standards as contained in 14 C.F.R. ss.  
217 77.15, 77.17, 77.19, 77.21, or 77.23, 77.25, 77.28, or 77.29, or  
218 any other federal aviation regulation.

219 (9) The denial of a permit under this section shall be  
220 subject to the administrative review provisions of chapter 120.

221 Section 11. Section 333.03, Florida Statutes, is amended  
222 to read:

223 333.03 Requirement ~~Power~~ to adopt airport zoning  
224 regulations.-

225 (1) (a) ~~In order to prevent the creation or establishment~~

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226 ~~of airport hazards,~~ Every political subdivision having an  
227 airport hazard area within its territorial limits shall, ~~by~~  
228 ~~October 1, 1977,~~ adopt, administer, and enforce, ~~under the~~  
229 ~~police power and~~ in the manner and upon the conditions  
230 ~~hereinafter~~ prescribed in this section, airport protection  
231 zoning regulations for such airport hazards ~~hazard area~~.

232 (b) Where an airport is owned or controlled by a political  
233 subdivision and an ~~any~~ airport hazard area ~~appertaining to such~~  
234 ~~airport~~ is located wholly or partly outside the territorial  
235 limits of the ~~said~~ political subdivision, the political  
236 subdivision owning or controlling the airport and any ~~the~~  
237 political subdivision within which the airport hazard area is  
238 located, shall either:

239 1. By interlocal agreement, ~~in accordance with the~~  
240 ~~provisions of chapter 163,~~ adopt, administer, and enforce a set  
241 of airport protection zoning regulations applicable to the  
242 airport hazard area ~~in question~~; or

243 2. By ordinance, regulation, or resolution duly adopted,  
244 create a joint airport zoning board that, ~~which board shall have~~  
245 ~~the same power to~~ adopt, administer, and enforce airport  
246 protection zoning regulations applicable to the airport hazard  
247 area in each ~~question as that vested in paragraph (a) in the~~  
248 political subdivision in ~~within~~ which the airport hazard ~~such~~  
249 area is located. Each such joint airport zoning board shall have  
250 as members two representatives appointed by each participating  
251 political subdivision ~~participating in its creation and,~~ in

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252 addition, a chair elected by a majority of the members so  
253 appointed. ~~The However, the~~ airport manager or representative of  
254 each airport in ~~managers of~~ the affected participating political  
255 subdivisions shall serve on the board in a nonvoting capacity.

256 (c) Airport protection zoning regulations adopted under  
257 paragraph (a) shall, as a minimum, require:

258 1. A permit variance for the ~~erection, construction, or~~  
259 ~~alteration, or modification~~ of any structure which would cause  
260 the structure to exceed the federal obstruction standards as  
261 contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and  
262 ~~77.23, 77.25, 77.28, and 77.29;~~

263 2. Obstruction marking and lighting for structures  
264 exceeding the federal obstruction standards as contained in 14  
265 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23, as specified  
266 in s. 333.07(3);

267 3. Documentation showing compliance with the federal  
268 requirement for notification of proposed construction or  
269 alteration and a valid aeronautical study evaluation ~~evaluation~~ submitted  
270 by each person applying for a permit variance;

271 4. Consideration of the criteria in s. 333.025(6), when  
272 determining whether to issue or deny a permit variance; and

273 5. That no permit variance shall be approved solely on the  
274 basis that such proposed structure will not exceed federal  
275 obstruction standards as contained in 14 C.F.R. ss. 77.15,  
276 77.17, 77.19, 77.21, and 77.23, ~~77.25, 77.28, or 77.29,~~ or any  
277 other federal aviation regulation.

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278           (d) The department is available to provide assistance to  
279 political subdivisions with regard to federal obstruction  
280 standards shall issue copies of the federal obstruction  
281 standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,  
282 77.28, and 77.29 to each political subdivision having airport  
283 hazard areas and, in cooperation with political subdivisions,  
284 shall issue appropriate airport zoning maps depicting within  
285 each county the maximum allowable height of any structure or  
286 tree. Material distributed pursuant to this subsection shall be  
287 at no cost to authorized recipients.

288           (2) In the manner provided in subsection (1), interim  
289 airport land use compatibility zoning regulations shall be  
290 adopted, administered and enforced. Airport land use  
291 compatibility zoning ~~When political subdivisions have adopted~~  
292 ~~land development regulations shall, at a minimum, in accordance~~  
293 ~~with the provisions of chapter 163 which address the use of land~~  
294 ~~in the manner consistent with the provisions herein, adoption of~~  
295 ~~airport land use compatibility regulations pursuant to this~~  
296 ~~subsection shall not be required. Interim airport land use~~  
297 ~~compatibility zoning regulations shall consider the following:~~

298           (a) Prohibiting any new and restricting any existing  
299 landfills ~~Whether sanitary landfills are located within the~~  
300 ~~following areas:~~

301           1. Within 10,000 feet from the nearest point of any runway  
302 used or planned to be used by turbine ~~turbojet or turboprop~~  
303 ~~aircraft.~~

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304 2. Within 5,000 feet from the nearest point of any runway  
305 used only by nonturbine ~~piston-type~~ aircraft.

306 3. Outside the perimeters defined in subparagraphs 1. and  
307 2., but still within the lateral limits of the civil airport  
308 imaginary surfaces defined in 14 C.F.R. s. 77.19 ~~part 77.25~~.  
309 Case-by-case review of such landfills is advised.

310 (b) Where ~~Whether~~ any landfill is located and constructed  
311 so that it attracts or sustains hazardous bird movements from  
312 feeding, water, or roosting areas into, or across, the runways  
313 or approach and departure patterns of aircraft. The landfill  
314 operator must be required to ~~political subdivision shall request~~  
315 ~~from the airport authority or other governing body operating the~~  
316 ~~airport a report on such bird feeding or roosting areas that at~~  
317 ~~the time of the request are known to the airport. In preparing~~  
318 ~~its report, the authority, or other governing body, shall~~  
319 ~~consider whether the landfill will~~ incorporate bird management  
320 techniques or other practices to minimize bird hazards to  
321 airborne aircraft. ~~The airport authority or other governing body~~  
322 ~~shall respond to the political subdivision no later than 30 days~~  
323 ~~after receipt of such request.~~

324 (c) Where an airport authority or other governing body  
325 operating a ~~publicly owned,~~ public-use airport has conducted a  
326 noise study in accordance with the provisions of 14 C.F.R. part  
327 150, or where the public-use airport owner has established noise  
328 contours pursuant to another public study approved by the Federal  
329 Aviation Administration, incompatible uses, as established in

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330 Appendix A of the 14 C.F.R. part 150 noise study or as a part of  
331 an alternative Federal Aviation Administration-approved public  
332 study, shall not be permitted within the noise contours  
333 established by that study, except where such use is specifically  
334 contemplated by such study with appropriate mitigation or similar  
335 techniques described in the study ~~neither residential~~  
336 ~~construction nor any educational facility as defined in chapter~~  
337 ~~1013, with the exception of aviation school facilities, shall be~~  
338 ~~permitted within the area contiguous to the airport defined by~~  
339 ~~an outer noise contour that is considered incompatible with that~~  
340 ~~type of construction by 14 C.F.R. part 150, Appendix A or an~~  
341 ~~equivalent noise level as established by other types of noise~~  
342 ~~studies.~~

343 (d) Where an airport authority or other governing body  
344 operating a ~~publicly owned~~, public-use airport has not conducted  
345 a noise study, neither residential construction nor any  
346 educational facility ~~as defined in chapter 1013~~, with the  
347 exception of aviation school facilities, shall be permitted  
348 within an area contiguous to the airport measuring one-half the  
349 length of the longest runway on either side of and at the end of  
350 each runway centerline.

351 (3) In the manner provided in subsection (1), airport  
352 zoning regulations ~~that shall be adopted which~~ restrict new  
353 incompatible uses, ~~activities,~~ or substantial modifications to  
354 existing incompatible uses ~~construction~~ within runway protection  
355 clear zones ~~shall be adopted, including uses, activities, or~~

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356 ~~construction in runway clear zones which are incompatible with~~  
357 ~~normal airport operations or endanger public health, safety, and~~  
358 ~~welfare by resulting in congregations of people, emissions of~~  
359 ~~light or smoke, or attraction of birds. Such regulations shall~~  
360 ~~prohibit the construction of an educational facility of a public~~  
361 ~~or private school at either end of a runway of a publicly owned,~~  
362 ~~public-use airport within an area which extends 5 miles in a~~  
363 ~~direct line along the centerline of the runway, and which has a~~  
364 ~~width measuring one-half the length of the runway. Exceptions~~  
365 ~~approving construction of an educational facility within the~~  
366 ~~delineated area shall only be granted when the political~~  
367 ~~subdivision administering the zoning regulations makes specific~~  
368 ~~findings detailing how the public policy reasons for allowing~~  
369 ~~the construction outweigh health and safety concerns prohibiting~~  
370 ~~such a location.~~

371 ~~(4) The procedures outlined in subsections (1), (2), and~~  
372 ~~(3) for the adoption of such regulations are supplemental to any~~  
373 ~~existing procedures utilized by political subdivisions in the~~  
374 ~~adoption of such regulations.~~

375 ~~(4)-(5)~~ The department of ~~Transportation~~ shall provide  
376 technical assistance to any political subdivision requesting  
377 assistance in the preparation of an airport zoning regulation  
378 ~~code~~. A copy of all local airport zoning codes, rules, and  
379 regulations, and amendments and proposed and granted permits  
380 ~~variances thereto~~, shall be filed with the department. All  
381 updates and amendments to local airport zoning codes, rules, and

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382 regulations shall be filed with the department within 30 days  
383 after adoption.

384 ~~(5)(6)~~ Nothing in subsection (2) or subsection (3) shall  
385 be construed to require the removal, alteration, sound  
386 conditioning, or other change, or to interfere with the  
387 continued use or adjacent expansion of any educational structure  
388 or site in existence on July 1, 1993, ~~or be construed to~~  
389 ~~prohibit the construction of any new structure for which a site~~  
390 ~~has been determined as provided in former s. 235.19, as of July~~  
391 ~~1, 1993.~~

392 (6) This section does not preclude an airport authority,  
393 political subdivision or its administrative agency, or other  
394 governing body operating a public-use airport from establishing  
395 airport protection zoning regulations more restrictive than  
396 prescribed in this section in order to protect the safety and  
397 welfare of the public in the air and on the ground.

398 Section 12. Section 333.04, Florida Statutes, is amended  
399 to read:

400 333.04 Comprehensive zoning regulations; most stringent to  
401 prevail where conflicts occur.—

402 (1) INCORPORATION.—In the event that a political  
403 subdivision has adopted, or hereafter adopts, a comprehensive  
404 plan or policy ~~zoning ordinance~~ regulating, among other things,  
405 the height of buildings, structures, and natural objects, and  
406 uses of property, any airport zoning regulations applicable to  
407 the same area or portion thereof may be incorporated in and made

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408 a part of such comprehensive plans or policies ~~zoning~~  
409 ~~regulations~~, and be administered and enforced in connection  
410 therewith.

411 (2) CONFLICT.—In the event of conflict between any airport  
412 zoning regulations adopted under this chapter and any other  
413 regulations applicable to the same area, whether the conflict be  
414 with respect to the height of structures or vegetation ~~trees~~,  
415 the use of land, or any other matter, and whether such  
416 regulations were adopted by the political subdivision which  
417 adopted the airport zoning regulations or by some other  
418 political subdivision, the more stringent limitation or  
419 requirement shall govern and prevail.

420 Section 13. Section 333.05, Florida Statutes, is amended  
421 to read:

422 333.05 Procedure for adoption of zoning regulations.—

423 (1) NOTICE AND HEARING.—~~No~~ Airport zoning regulations may  
424 not shall be adopted, amended, or deleted ~~changed~~ under this  
425 chapter except by action of the legislative body of the  
426 political subdivision or subdivisions affected in question, or  
427 the joint board provided in s. 333.03(1)(b)2. ~~333.03(1)(b)~~ by  
428 the political subdivisions ~~bodies~~ therein provided and set  
429 forth, after a public hearing in relation thereto, at which  
430 parties in interest and citizens shall have an opportunity to be  
431 heard. Notice of the hearing shall be published at least once a  
432 week for 2 consecutive weeks in a newspaper ~~an official paper,~~  
433 ~~or a paper~~ of general circulation, in the political subdivision

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434 or subdivisions where ~~in which are located~~ the airport zoning  
435 regulations are ~~areas~~ to be adopted, amended, or deleted ~~zoned~~.

436 (2) AIRPORT ZONING COMMISSION.—Before ~~Prior to~~ the initial  
437 zoning of any airport area under this chapter the political  
438 subdivision or joint airport zoning board which is to adopt,  
439 administer, and enforce the regulations shall appoint a  
440 commission, to be known as the airport zoning commission, to  
441 recommend the boundaries of the various zones to be established  
442 and the regulations to be adopted therefor. Such commission  
443 shall make a preliminary report and hold public hearings thereon  
444 before submitting its final report, and the legislative body of  
445 the political subdivision or the joint airport zoning board  
446 shall not hold its public hearings or take any action until it  
447 has received the final report of such commission, and at least  
448 15 days shall elapse between the receipt of the final report of  
449 the commission and the hearing to be held by the latter board.  
450 Where a planning ~~city plan~~ commission, airport commission, or  
451 comprehensive zoning commission already exists, it may be  
452 appointed as the airport zoning commission.

453 Section 14. Section 333.06, Florida Statutes, is amended  
454 to read:

455 333.06 Airport zoning requirements.—

456 (1) REASONABLENESS.—All airport zoning regulations adopted  
457 under this chapter shall be reasonable and ~~none~~ shall not impose  
458 any requirement or restriction which is not reasonably necessary  
459 to effectuate the purposes of this chapter. In determining what

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460 regulations it may adopt, each political subdivision and joint  
461 airport zoning board shall consider, among other things, the  
462 character of the flying operations expected to be conducted at  
463 the airport, the nature of the terrain within the airport hazard  
464 area and runway protection clear zones, the character of the  
465 neighborhood, the uses to which the property to be zoned is put  
466 and adaptable, and the impact of any new use, activity, or  
467 construction on the airport's operating capability and capacity.

468 (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport  
469 zoning regulations adopted under this chapter is to provide both  
470 airspace protection and land uses ~~use~~ compatible with airport  
471 operations. Each aspect of this purpose requires independent  
472 justification in order to promote the public interest in safety,  
473 health, and general welfare. Specifically, construction in a  
474 runway protection clear zone which does not exceed airspace  
475 height restrictions is not conclusive evidence ~~evidence per se~~ that such  
476 use, activity, or construction is compatible with airport  
477 operations.

478 (3) NONCONFORMING USES.—No airport protection zoning  
479 regulations adopted under this chapter shall require the  
480 removal, lowering, or other change or alteration of any  
481 structure or vegetation ~~tree~~ not conforming to the regulations  
482 when adopted or amended, or otherwise interfere with the  
483 continuance of any nonconforming use, except as provided in s.  
484 333.07(1) and (3).

485 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED

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486 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by  
487 each public-use ~~publicly owned and operated~~ airport licensed by  
488 the department ~~of Transportation~~ under chapter 330. The  
489 authorized entity having responsibility for governing the  
490 operation of the airport, when either requesting from or  
491 submitting to a state or federal governmental agency with  
492 funding or approval jurisdiction a "finding of no significant  
493 impact," an environmental assessment, a site-selection study, an  
494 airport master plan, or any amendment to an airport master plan,  
495 shall submit simultaneously a copy of said request, submittal,  
496 assessment, study, plan, or amendments by certified mail to all  
497 affected local governments. For the purposes of this subsection,  
498 "affected local government" is defined as any city or county  
499 having jurisdiction over the airport and any city or county  
500 located within 2 miles of the boundaries of the land subject to  
501 the airport master plan.

502 Section 15. Section 333.065, Florida Statutes, is  
503 repealed.

504 Section 16. Section 333.07, Florida Statutes, is amended  
505 to read:

506 333.07 Local government permitting of airspace ~~Permits and~~  
507 ~~variances.—~~

508 (1) PERMITS.—

509 (a) Any person proposing to erect, construct, or alter any  
510 structure, increase the height of any structure, permit the  
511 growth of any vegetation, or otherwise use his or her property

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512 in violation of the airport protection zoning regulations  
513 adopted under this chapter shall apply for a permit. A Any  
514 ~~airport zoning regulations adopted under this chapter may~~  
515 ~~require that a permit be obtained before any new structure or~~  
516 ~~use may be constructed or established and before any existing~~  
517 ~~use or structure may be substantially changed or substantially~~  
518 ~~altered or repaired. In any event, however, all such regulations~~  
519 ~~shall provide that before any nonconforming structure or tree~~  
520 ~~may be replaced, substantially altered or repaired, rebuilt,~~  
521 ~~allowed to grow higher, or replanted, a permit must be secured~~  
522 ~~from the administrative agency authorized to administer and~~  
523 ~~enforce the regulations, authorizing such replacement, change,~~  
524 ~~or repair. No permit may not shall be issued granted~~ that would  
525 allow the establishment or creation of an airport hazard or  
526 would permit a nonconforming structure or vegetation ~~tree~~ or  
527 nonconforming use to be made or become higher or to become a  
528 greater hazard to air navigation than it was when the applicable  
529 regulation was adopted or than it is when the application for a  
530 permit is made.

531 (b) Whenever the political subdivision or its  
532 administrative agency determines that a nonconforming use or  
533 nonconforming structure or vegetation ~~tree~~ has been abandoned or  
534 is more than 80 percent torn down, destroyed, deteriorated, or  
535 decayed, ~~a~~ ~~no~~ permit may not shall be granted that would allow  
536 ~~the said~~ structure or vegetation ~~tree~~ to exceed the applicable  
537 height limit or otherwise deviate from the zoning regulations.†

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538 ~~and, Whether or not an application is made for a permit under~~  
539 ~~this subsection or not, the said agency may by appropriate~~  
540 ~~action, compel the owner of the nonconforming structure or~~  
541 ~~vegetation may be required tree, at his or her own expense, to~~  
542 ~~lower, remove, reconstruct, alter, or equip such object as may~~  
543 ~~be necessary to conform to the regulations. If the owner of the~~  
544 ~~nonconforming structure or vegetation tree shall neglect or~~  
545 ~~refuse to comply with such order for 10 days after notice~~  
546 ~~thereof, the said agency may report the violation to the~~  
547 ~~political subdivision involved therein, which subdivision,~~  
548 ~~through its appropriate agency, may proceed to have the object~~  
549 ~~so lowered, removed, reconstructed, altered or equipped, and~~  
550 ~~assess the cost and expense thereof upon the object or the land~~  
551 ~~whereon it is or was located, and, unless such an assessment is~~  
552 ~~paid within 90 days from the service of notice thereof on the~~  
553 ~~owner or the owner's agent, of such object or land, the sum~~  
554 ~~shall be a lien on said land, and shall bear interest thereafter~~  
555 ~~at the rate of 6 percent per annum until paid, and shall be~~  
556 ~~collected in the same manner as taxes on real property are~~  
557 ~~collected by said political subdivision, or, at the option of~~  
558 ~~said political subdivision, said lien may be enforced in the~~  
559 ~~manner provided for enforcement of liens by chapter 85.~~

560 ~~(c) Except as provided herein, applications for permits~~  
561 ~~shall be granted, provided the matter applied for meets the~~  
562 ~~provisions of this chapter and the regulations adopted and in~~  
563 ~~force hereunder.~~

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564       ~~(2) VARIANCES.—~~  
565       ~~(a) Any person desiring to erect any structure, increase~~  
566 ~~the height of any structure, permit the growth of any tree, or~~  
567 ~~otherwise use his or her property in violation of the airport~~  
568 ~~zoning regulations adopted under this chapter or any land~~  
569 ~~development regulation adopted pursuant to the provisions of~~  
570 ~~chapter 163 pertaining to airport land use compatibility, may~~  
571 ~~apply to the board of adjustment for a variance from the zoning~~  
572 ~~regulations in question. At the time of filing the application,~~  
573 ~~the applicant shall forward to the department by certified mail,~~  
574 ~~return receipt requested, a copy of the application. The~~  
575 ~~department shall have 45 days from receipt of the application to~~  
576 ~~comment and to provide its comments or waiver of that right to~~  
577 ~~the applicant and the board of adjustment. The department shall~~  
578 ~~include its explanation for any objections stated in its~~  
579 ~~comments. If the department fails to provide its comments within~~  
580 ~~45 days of receipt of the application, its right to comment is~~  
581 ~~waived. The board of adjustment may proceed with its~~  
582 ~~consideration of the application only upon the receipt of the~~  
583 ~~department's comments or waiver of that right as demonstrated by~~  
584 ~~the filing of a copy of the return receipt with the board.~~  
585 ~~Noncompliance with this section shall be grounds to appeal~~  
586 ~~pursuant to s. 333.08 and to apply for judicial relief pursuant~~  
587 ~~to s. 333.11. Such variances may only be allowed where a literal~~  
588 ~~application or enforcement of the regulations would result in~~  
589 ~~practical difficulty or unnecessary hardship and where the~~

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590 ~~relief granted would not be contrary to the public interest but~~  
591 ~~would do substantial justice and be in accordance with the~~  
592 ~~spirit of the regulations and this chapter. However, any~~  
593 ~~variance may be allowed subject to any reasonable conditions~~  
594 ~~that the board of adjustment may deem necessary to effectuate~~  
595 ~~the purposes of this chapter.~~

596 ~~(b) The Department of Transportation shall have the~~  
597 ~~authority to appeal any variance granted under this chapter~~  
598 ~~pursuant to s. 333.08, and to apply for judicial relief pursuant~~  
599 ~~to s. 333.11.~~

600 (2) CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.-In  
601 determining whether to issue or deny a permit, the political  
602 subdivision or its administrative agency shall consider the  
603 following, as applicable:

604 (a) The safety of persons on the ground and in the air.

605 (b) The safe and efficient use of navigable airspace.

606 (c) The nature of the terrain and height of existing  
607 structures.

608 (d) The state licensing standards for a public-use  
609 airport, contained in chapter 330 and rule 14-60, Florida  
610 Administrative Code, for the construction or alteration of the  
611 proposed structure.

612 (e) The character of existing and planned flight  
613 operations and developments at public-use airports.

614 (f) Federal airways, visual flight rules, flyways and  
615 corridors, and instrument approaches as designated by the

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616 Federal Aviation Administration.

617 (g) Effect of the construction or alteration of the  
618 proposed structure on the minimum descent altitude or the  
619 decision height at the affected airport.

620 (h) The cumulative effects on navigable airspace of all  
621 existing structures and all other known proposed structures in  
622 the area.

623 (i) Requirements contained in s. 333.03(2) and (3).

624 (j) Additional requirements adopted by the political  
625 subdivision or administrative agency pertinent to evaluation and  
626 protection of airspace and airport operations.

627 (3) OBSTRUCTION MARKING AND LIGHTING.—

628 ~~(a) In issuing a granting any permit or variance under~~  
629 ~~this section, the political subdivision or its administrative~~  
630 ~~agency or board of adjustment shall require the owner of the~~  
631 ~~structure or vegetation tree in question to install, operate,~~  
632 ~~and maintain thereon, at his or her own expense, such marking~~  
633 ~~and lighting in conformance with the specific standards~~  
634 ~~established by the Federal Aviation Administration as may be~~  
635 ~~necessary to indicate to aircraft pilots the presence of an~~  
636 ~~obstruction.~~

637 (b) Such marking and lighting shall conform to the  
638 specific standards established by rule by the department of  
639 Transportation.

640 ~~(c) Existing structures not in compliance on October 1,~~  
641 ~~1988, shall be required to comply whenever the existing marking~~

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. PCB TPS 15-01 (2015)

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642 ~~requires refurbishment, whenever the existing lighting requires~~  
643 ~~replacement, or within 5 years of October 1, 1988, whichever~~  
644 ~~occurs first.~~

645 Section 17. Section 333.08, Florida Statutes, is repealed.

646 Section 18. Section 333.09, Florida Statutes, is amended  
647 to read:

648 333.09 Administration of airport zoning regulations.—

649 (1) ADMINISTRATION.—All airport zoning regulations adopted  
650 under this chapter shall provide for the administration and  
651 enforcement of such regulations by the political subdivision or  
652 its administrative agency ~~by an administrative agency which may~~  
653 ~~be an agency created by such regulations or any official, board,~~  
654 ~~or other existing agency of the political subdivision adopting~~  
655 ~~the regulations or of one of the political subdivisions which~~  
656 ~~participated in the creation of the joint airport zoning board~~  
657 ~~adopting the regulations, if satisfactory to that political~~  
658 ~~subdivision, but in no case shall such administrative agency be~~  
659 ~~or include any member of the board of adjustment.~~ The duties of  
660 any administrative agency designated pursuant to this chapter  
661 shall include that of hearing and deciding all permits under s.  
662 333.07(1), ~~deciding all matters under s. 333.07(3),~~ as they  
663 pertain to such agency, and all other matters under this chapter  
664 applying to said agency, ~~but such agency shall not have or~~  
665 ~~exercise any of the powers herein delegated to the board of~~  
666 ~~adjustment.~~

667 (2) LOCAL GOVERNMENT PROCESS.—

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668 (a) A political subdivision required to adopt airport  
669 zoning regulations under this chapter shall provide a process to:

670 1. Issue or deny permits consistent with s. 333.07,  
671 including requests for exceptions to airport zoning regulations.

672 2. Notify the department of receipt of a complete  
673 application consistent with s. 333.025(4).

674 3. Enforce any permit, order, requirement, decision, or  
675 determination made by the administrative agency with respect to  
676 airport zoning regulations.

677 (b) If a zoning board or permitting body already exists  
678 within a political subdivision, the zoning board or permitting  
679 body may implement the permitting and appeals process. Otherwise,  
680 the political subdivision shall implement the permitting and  
681 appeals process in a manner consistent with its constitutional  
682 powers and areas of jurisdiction.

683 (3) APPEALS.—

684 (a) A person or a political subdivision or its  
685 administrative agency or a joint airport zoning board that  
686 contends a decision made by a political subdivision or its  
687 administrative agency is an improper application of airport  
688 zoning regulations, may use the process established for an  
689 appeal.

690 (b) All appeals taken under this section must be taken  
691 within a reasonable time, as provided by the political  
692 subdivision or its administrative agency, by filing with the  
693 entity from which appeal is taken a notice of appeal specifying

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694 the grounds for appeal.

695 (c) An appeal shall stay all proceedings in the underlying  
696 action appealed from, unless the entity from which the appeal is  
697 taken certifies pursuant to the rules for appeal that by reason  
698 of the facts stated in the certificate a stay would, in its  
699 opinion, cause imminent peril to life or property. In such cases,  
700 proceedings shall not be stayed except by order of the political  
701 subdivision or its administrative agency on notice to the entity  
702 from which the appeal is taken and on good cause shown.

703 (d) The political subdivision or its administrative agency  
704 shall set a reasonable time for the hearing of appeals, give  
705 public notice and due notice to the parties in interest, and  
706 decide the same within a reasonable time. Upon the hearing, any  
707 party may appear in person, by agent, or by attorney.

708 (e) The political subdivision or its administrative agency  
709 may, in conformity with the provisions of this chapter, reverse,  
710 affirm, or modify the order, requirement, decision, or  
711 determination from which the appeal is taken.

712 Section 19. Section 333.10, Florida Statutes, is repealed.

713 Section 20. Section 333.11, Florida Statutes, is amended  
714 to read:

715 333.11 Judicial review.—

716 (1) Any person, ~~aggrieved, or taxpayer affected, by any~~  
717 ~~decision of a board of adjustment, or any governing body of a~~  
718 ~~political subdivision, or the Department of Transportation or~~  
719 ~~any joint airport zoning board,~~ affected by a decision of a

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720 political subdivision or its ~~of any~~ administrative agency  
721 ~~hereunder~~, may apply for judicial relief to the circuit court in  
722 the judicial circuit where the political subdivision ~~board of~~  
723 ~~adjustment~~ is located within 30 days after rendition of the  
724 decision ~~by the board of adjustment~~. Review shall be by petition  
725 for writ of certiorari, which shall be governed by the Florida  
726 Rules of Appellate Procedure.

727 ~~(2) Upon presentation of such petition to the court, it~~  
728 ~~may allow a writ of certiorari, directed to the board of~~  
729 ~~adjustment, to review such decision of the board. The allowance~~  
730 ~~of the writ shall not stay the proceedings upon the decision~~  
731 ~~appealed from, but the court may, on application, on notice to~~  
732 ~~the board, on due hearing and due cause shown, grant a~~  
733 ~~restraining order.~~

734 ~~(3) The board of adjustment shall not be required to~~  
735 ~~return the original papers acted upon by it, but it shall be~~  
736 ~~sufficient to return certified or sworn copies thereof or of~~  
737 ~~such portions thereof as may be called for by the writ. The~~  
738 ~~return shall concisely set forth such other facts as may be~~  
739 ~~pertinent and material to show the grounds of the decision~~  
740 ~~appealed from and shall be verified.~~

741 (2)-(4) The court shall have exclusive jurisdiction to  
742 affirm, modify, or set aside the decision brought up for review,  
743 ~~in whole or in part~~, and if need be, to order further  
744 proceedings by the political subdivision or its administrative  
745 agency board of adjustment. The findings of fact by the

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746 political subdivision or its administrative agency board, if  
747 supported by substantial evidence, shall be accepted by the  
748 court as conclusive, and no objection to a decision of the  
749 political subdivision or its administrative agency board shall  
750 be considered by the court unless such objection was raised in  
751 the underlying proceeding ~~shall have been urged before the~~  
752 ~~board, or, if it was not so urged, unless there were reasonable~~  
753 ~~grounds for failure to do so.~~

754 ~~(3)(5)~~ In any case where ~~in which~~ airport zoning  
755 regulations adopted under this chapter, ~~although generally~~  
756 ~~reasonable,~~ are held by a court to interfere with the use and  
757 enjoyment of a particular structure or parcel of land to such an  
758 extent, or to be so onerous in their application to such a  
759 structure or parcel of land, as to constitute a taking or  
760 deprivation of that property in violation of the State  
761 Constitution or the Constitution of the United States, such  
762 holding shall not affect the application of such regulations to  
763 other structures and parcels of land, or such regulations as are  
764 not involved in the particular decision.

765 ~~(4)(6)~~ A judicial ~~No~~ appeal may not ~~shall~~ be ~~or is~~  
766 permitted under this section, to any courts, until the appellant  
767 has exhausted all its remedies through application for local  
768 government permits, exceptions, and appeals ~~as herein provided,~~  
769 ~~save and except an appeal from a decision of the board of~~  
770 ~~adjustment, the appeal herein provided being from such final~~  
771 ~~decision of such board only, the appellant being hereby required~~

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772 ~~to exhaust his or her remedies hereunder of application for~~  
773 ~~permits, exceptions and variances, and appeal to the board of~~  
774 ~~adjustment, and gaining a determination by said board, before~~  
775 ~~being permitted to appeal to the court hereunder.~~

776 Section 21. Section 333.12, Florida Statutes, is amended  
777 to read:

778 333.12 Acquisition of air rights.—~~When In any case which:~~  
779 ~~it is desired to remove, lower or otherwise terminate a~~  
780 nonconforming structure or use presents an air hazard and the  
781 structure cannot be removed, lowered, or otherwise terminated;  
782 or the approach protection necessary cannot, because of  
783 constitutional limitations, be provided by airport regulations  
784 under this chapter; or it appears advisable that the necessary  
785 approach protection be provided by acquisition of property  
786 rights rather than by airport zoning regulations, the political  
787 subdivision within which the property or nonconforming use is  
788 located, or the political subdivision owning or operating the  
789 airport or being served by it, may acquire, by purchase, grant,  
790 or condemnation in the manner provided by chapter 73, such air  
791 right, avigation ~~navigation~~ easement, or other estate, portion  
792 or interest in the property or nonconforming structure or use or  
793 such interest in the air above such property, vegetation ~~tree,~~  
794 structure, or use, in question, as may be necessary to  
795 effectuate the purposes of this chapter, and in so doing, if by  
796 condemnation, to have the right to take immediate possession of  
797 the property, interest in property, air right, or other right

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798 sought to be condemned, at the time, and in the manner and form,  
799 and as authorized by chapter 74. In the case of the purchase of  
800 any property, ~~or any~~ easement, or estate or interest therein or  
801 the acquisition of the same by the power of eminent domain the  
802 political subdivision making such purchase or exercising such  
803 power shall in addition to the damages for the taking, injury,  
804 or destruction of property also pay the cost of the removal and  
805 relocation of any structure or any public utility which is  
806 required to be moved to a new location.

807 Section 22. Section 333.13, Florida Statutes, is amended  
808 to read:

809 333.13 Enforcement and remedies.—

810 (1) Each violation of this chapter or of any regulations,  
811 orders, or rulings promulgated or made pursuant to this chapter  
812 shall constitute a misdemeanor of the second degree, punishable  
813 as provided in s. 775.082 or s. 775.083, and each day a  
814 violation continues to exist shall constitute a separate  
815 offense.

816 (2) In addition, the political subdivision or agency  
817 adopting the airport zoning regulations under this chapter may  
818 institute in any court of competent jurisdiction an action to  
819 prevent, restrain, correct, or abate any violation of this  
820 chapter or of airport zoning regulations adopted under this  
821 chapter or of any order or ruling made in connection with their  
822 administration or enforcement, and the court shall adjudge to  
823 the plaintiff such relief, by way of injunction (which may be

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824 mandatory) or otherwise, as may be proper under all the facts  
825 and circumstances of the case in order to fully effectuate the  
826 purposes of this chapter and of the regulations adopted and  
827 orders and rulings made pursuant thereto.

828 (3) The department ~~of Transportation~~ may institute a civil  
829 action for injunctive relief in the appropriate circuit court to  
830 prevent violation of any provision of this chapter.

831 Section 23. Section 333.135, Florida Statutes, is created  
832 to read:

833 333.135 Transition provisions.—

834 (1) Any airport zoning regulation in effect on July 1,  
835 2015, that includes provisions in conflict with this chapter  
836 shall be amended to conform to the requirements of this chapter  
837 by July 1, 2016.

838 (2) Any political subdivision having an airport within its  
839 territorial limits which has not adopted airport zoning  
840 regulations, shall, by October 1, 2017, adopt airport zoning  
841 regulations consistent with the provisions of this chapter.

842 (3) For those political subdivisions that have not yet  
843 adopted airport zoning regulations pursuant to this chapter, the  
844 department shall administer the permitting process as provided in  
845 s. 333.025.

846 Section 24. Section 333.14, Florida Statutes, is repealed.

847  
848  
849 -----

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850

**T I T L E   A M E N D M E N T**

851

Remove line 59 and insert:

852

political subdivisions or their administrative agencies to

853

provide certain processes

854

Remove line 75 and insert:

855

political subdivisions; repealing s. 333.14, F.S., relating